

A Guide to the Department of Revenue



Getting Information



Solving a Problem



Audits and Collections



Appeals



Resources



Taxpayer Assistance



Massachusetts Department of Revenue

Your Rights

DOR must be objective, impartial, professional and ethical in its administration of the tax laws; any information that you as a taxpayer provide to the Department will be handled with the utmost confidentiality and professionalism.

DOR must maintain a Problem Resolution Office and an Office of Internal Affairs to safeguard taxpayers' rights.

DOR may not establish or enforce individual collection goals or collection quotas for its employees.

If you are unable to satisfy a tax liability in full, the Commissioner of Revenue may enter into a payment agreement if the Commissioner determines it will facilitate collection of the tax.

You may obtain representation at any point in your dealings with the Department.

You generally are entitled to appeal a DOR decision regarding your tax liability. DOR is obligated to make abatement decisions as promptly as possible and to issue any refunds resulting from abatement decisions within 30 days of such decisions.

You will not be subject to statutory penalties if you make a mistake because you relied on erroneous written advice from DOR representatives acting in their official capacities.

THIS PAGE
LEFT BLANK
INTENTIONALLY

Dear Taxpayer:

The Department of Revenue (DOR) is committed to enforcing the tax laws of the Commonwealth in a fair, impartial and consistent manner. Taxpayers have considerable legislative rights and protections, which are outlined here in "Your Taxpayer Bill of Rights." This guide is a comprehensive source of DOR's operating policies and procedures. DOR values its protection of taxpayer rights and confidentiality. We place significant emphasis on providing professional and courteous customer service to all taxpayers.

For information or assistance, please visit our website, www.mass.gov/dor, or call our Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Sincerely,

A handwritten signature in black ink, reading "Navjeet K. Bal". The signature is fluid and cursive, with the first name "Navjeet" and last name "Bal" clearly legible.

*Navjeet K. Bal
Commissioner of Revenue*

5	From the Commissioner
7	Introduction
8	Getting Information <i>Where to go for answers on general state tax issues or your specific situation</i>
16	Solving a Problem <i>How to straighten out a problem with your state taxes</i>
22	Understanding an Audit or Collection Activity <i>What happens if you are audited or assessed overdue state taxes</i>
32	Appealing a State Tax Bill <i>How to dispute an assessment or reduce a liability</i>
43	Department of Revenue Resources
44	Commonly Requested Forms and Publications
46	Department of Revenue Telephone Directory
47	Index

Taxes may be inevitable, but paying them should not be an overly confusing or intimidating experience. **Understanding how the system works — including how to appeal a Department of Revenue finding — is every taxpayer's right.**

This guide is an introduction to the services DOR provides to taxpayers. Our philosophy is simple: Most people want to pay what they owe on time and in full, and an important part of our job is to explain taxpayers' responsibilities as clearly as possible.

This guide is also an introduction to how the system works if you have a problem with your taxes, or if you disagree with how much DOR says you owe in taxes. Our goal is to take the mystery out of tax administration: Well-informed taxpayers can get faster results by knowing their options and exercising them quickly.

Taxpayers also may need to know what will happen if they do not pay any undisputed taxes that they owe. State law provides for an escalating series of sanctions — from interest and penalty charges to court actions — designed to ensure that everyone pays his or her fair share of taxes. These enforcement tools, carefully used, encourage voluntary compliance while assuring honest taxpayers that they are not shouldering an unfair burden.

As an introduction, this guide may not be able to provide you with all the detailed information that you need to answer a particular question or solve a specific problem. That's why there are telephone numbers listed throughout the guide, as well as a Telephone Directory and a Resource section detailing the various kinds of help DOR has to offer and how to access them. (See pages 43 through 46). We urge you to contact the Department directly — using this guide as a handy reference tool — if you have any further questions or comments.

Getting Information

Your Rights: DOR must be objective, impartial, professional and ethical in its administration of the tax laws; any information that you as a taxpayer provide to the Department will be handled with the utmost confidentiality and professionalism.

The Department of Revenue (DOR) offers a range of free services to taxpayers — both individuals and businesses. Most questions can be answered easily online or over the phone. Information can be accessed through DOR's website (www.mass.gov/dor) 24 hours a day, seven days a week; and telephone assistance is available to taxpayers Monday through Friday from 8:45 a.m. to 5:00 p.m.

☛ Oral advice from the Department is offered as a public service and does not replace or supersede the Commonwealth's General Laws on taxation or DOR's official statements on policy; taxpayers who have complicated questions, for example, on issues driven by their own particular business facts and circumstances, should seek out DOR's written position on the matter or request further written advice from the Department. Please see pages 14 and 15 for more information.

Where can I get help in figuring out my income tax situation?



DOR website
www.mass.gov/dor

The DOR website is a valuable resource for taxpayers as it contains extensive information on Massachusetts taxes. In addition, the website has many online applications taxpayers, or their Power of Attorney, may use in their dealings with the Department, including filing returns, making tax payments, updating personal information with DOR, determining the status of a refund, applying for abatements, and more.



Customer Service
Bureau — Monday through
Friday — 8:45am–5:00pm

DOR's Customer Service Bureau (CSB) also can assist taxpayers with all aspects of complying with the Commonwealth's personal income tax laws, including supplying forms; determining which forms and schedules to use; answering technical tax questions; locating a refund that is overdue; explaining estimated tax requirements; and responding to inquiries about bills, notices and abatement requests.

Please see the end of this section for a complete list of other resources available to taxpayers who have particularly complicated tax issues.

Does DOR have the right to ask for my Social Security number?

Under the authority of 42 USC § 405(c)(2)(C)(i), and MGL c. 62C, § 5, the Department of Revenue has the right to require an individual to furnish his or her Social Security number on a state tax return. This information is mandatory. DOR uses Social Security numbers for taxpayer identification

to assist in processing and keeping track of returns and in determining and collecting the proper amount of tax due. Under MGL c. 62C, § 40, the taxpayer's identifying number is required to process a refund of overpaid taxes. Although tax return information generally is confidential, pursuant to MGL c. 62C, § 21, DOR may disclose return information to other taxing authorities and those entities specified in MGL c. 62C, §§ 21, 22 or 23, and as otherwise authorized by law.

What if I need more time to file my individual income tax return or corporate tax return? Can I get an extension?

Beginning with returns for tax year 2006, the Department of Revenue will grant certain taxpayers who are in clear refund situations or are filing a return with no tax due an automatic six-month extension of time to file a tax return without the need to file an extension application. For more detailed information, please see TIR 06-21, Revised Rules for Automatic Extension of Time to File Tax Returns for Certain Taxpayers, available on the DOR website at www.mass.gov/dor, or by calling DOR's Rulings and Regulations Bureau at 617-626-3250.

Individual taxpayers who do not qualify for the automatic extension without application, must file Form M-4868 and have paid at least 80 percent of their total tax liability for the year by April 15 for the extension to be valid. This is not an extension to pay, and any additional tax you expect to owe should be paid with Form M-4868.

Form M-4868 may be filed electronically via touch-tone telephone or through the DOR website. **Note:** You must file an extension request electronically if you owe no tax or if a payment of \$5,000 or more accompanies the extension request. Payments must be made through Electronic Funds Withdrawal. You may telefile Form M-4868 by calling 617-660-2222, or file online via the Web Services for Income section of the DOR website at www.mass.gov/dor.

Fiduciaries, partnerships, corporate trusts, clubs and other unincorporated organizations can request an automatic six-month extension via Form M-8736. Form M-8736 must be filed by the filing deadline and at least 80 percent of the total tax due must be paid by fiduciaries, corporate trusts, clubs and other unincorporated organizations for the extension to

be valid. You may telefile Form M-8736 by calling 617-660-2222, or file online via the Web Services for Income section of the DOR website at www.mass.gov/dor. Please note that if you electronically file Form M-8736 and owe money, you must pay by Electronic Funds Withdrawal.

To request a filing extension for a corporation, you must file Form 355-7004 by the corporation's filing deadline. Any estimated payment and any payment due submitted with Form 355-7004 must equal at least 50 percent of the corporation's tax liability for the year for the extension to be valid.

All corporations with gross receipts, sales or income from all sources of \$100,000 or more must file extensions and make any accompanying payment electronically. Any corporation making a payment of \$5,000 or more with its extension request must file the extension and make the payment electronically. Electronic corporate extension requests and payments may be made online via the WebFile for Business section of DOR's website at www.mass.gov/dor.

Taxpayers should know, however, that by law interest will accrue on any tax liability that is not paid by the original deadline.

For more information or to obtain forms, visit the DOR website at www.mass.gov/dor, or call 617-887-MDOR or toll-free in Massachusetts 800-392-6089. See TIR 04-30, Revised Electronic Filing Requirements, for more information about electronic filing.



DOR Assistance Lines
617-887-MDOR
Toll-free 800-392-6089

I received income from which no state taxes were withheld. Do I need to pay estimated taxes?

Generally, estimated taxes are due if a taxpayer receives enough taxable income — from which there is no withholding — to result in an annual tax liability of more than \$400. To avoid penalty charges, taxes on this income must be paid in quarterly installments using Estimated Income Tax Vouchers for individuals (Form 1-ES) or Estimated Income Tax Vouchers for fiduciaries, corporate trusts and other unincorporated organizations (Form 2-ES). Estimated income tax payments may be made electronically via the Web Services for Income section of the DOR website at www.mass.gov/dor.



See "Should You Be
Paying Individual
Estimated Taxes?"

The Department has an easy-to-follow guide on estimated taxes called **Should You Be Paying Individual Estimated Taxes?** For a copy of the guide, Form 1-ES, Form 2-ES or more information, visit the DOR website at www.mass.gov/dor or call DOR's main information lines at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Taxpayers may check their quarterly payment history online via DOR's website at www.mass.gov/dor, or by calling DOR's main information lines at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

How can I find out what items are subject to the Massachusetts sales/use tax?

DOR's online publication, **A Guide to Sales and Use Tax**, answers the questions most taxpayers and vendors have about the sales/use tax. The guide includes a list of taxable and nontaxable items. Copies are available on the DOR website at www.mass.gov/dor.

I'm buying a car (or a boat). What state taxes will I have to pay?

Any car or boat bought in Massachusetts — even if it is not going to be registered here — is subject to the Massachusetts sales tax. Any car or boat bought out-of-state for use in Massachusetts is subject to the use tax.

The sales tax on cars must be paid by the buyer within 10 days of purchase, transfer or first use, if the car is to be registered or titled in Massachusetts, or on or before the twentieth day of the month following the month of purchase, transfer or first use, if the car is not required to be registered or titled in Massachusetts.

The sales tax on boats purchased from a Massachusetts dealer is collected by the dealer at the time of sale. For casual sales, the sales tax is due prior to registration or by the twentieth day of the following month, whichever occurs earlier. The sales tax on boats must be filed and paid electronically via DOR's online ST-6 application, available at www.mass.gov/dor.

If the sales/use tax is not paid when due, interest and penalty charges will be added.

DOR staff can answer questions regarding motor vehicle sales and use taxes. Please call 617-887-MDOR or toll-free in Massachusetts 800-392-6089.

What are my tax responsibilities if I buy something in another state?

If you buy taxable items outside Massachusetts that are to be used, consumed or stored here, on which you paid no sales tax or a sales tax less than the Massachusetts sales tax, you must pay a use tax directly to the Commonwealth. The use tax is levied at the same rate as the sales tax. (If you have proof that a sales tax was paid to the other state, you generally are entitled to a credit on the Massachusetts use tax.) For their convenience, individuals may report and pay any Massachusetts use tax due on their personal income tax return, Massachusetts Resident Tax Return (Form 1) or Telefile (or Form 1-NR/PY for part-year residents).

DOR's online publication, **A Guide to Sales and Use Tax**, explains your responsibilities for paying use tax on out-of-state purchases. Copies are available on the DOR website at www.mass.gov/dor.

Who can answer my questions about Massachusetts estate tax?

DOR's Estate Tax Unit provides assistance to family members, executors and administrators in meeting estate tax obligations. Estate tax staff can answer questions on estate tax filing issues. The Estate Tax Unit can be reached at 617-887-6930.

In 2002, the Massachusetts Legislature changed the estate tax to "decouple" it from the federal estate tax. For dates of death occurring on or after January 1, 2003, the Massachusetts estate tax, also known as the "sponge tax," is computed using the Internal Revenue Code in effect on December 31, 2000. As a result of these changes, the threshold amounts for filing Massachusetts and federal estate tax returns are different for the estates of decedents dying on or after January 1, 2003. Under the new law, Massachusetts estate tax returns are required when the gross estate plus adjusted taxable gifts, computed using the Internal Revenue Code in effect on December 31, 2000, exceeds \$700,000 for deaths in 2003; \$850,000 for deaths in 2004; \$950,000 for deaths in 2005; and \$1,000,000 for deaths in 2006 and thereafter.

The Economic Growth and Tax Relief Reconciliation Act of 2001 changed the federal estate tax but has no impact on the Massachusetts estate tax. Beginning in 2003, some estates will file a Massachusetts estate tax re-

turn but no federal estate tax return, and some estates will pay a Massachusetts estate tax but no federal estate tax.

DOR publishes **A Guide to Estate Taxes**, (applicable to dates of death on or after January 1, 2003), which is available on the DOR website, or by calling the Estate Tax Unit. Taxpayers needing information on prior dates of death should see the 2002 **A Guide to Estate Taxes** (applicable to dates of death occurring on or after January 1, 1997 and prior to January 1, 2003) or the 1996 **A Guide to Estate Taxes** (applicable to dates of death prior to January 1, 1997).



See "A Guide to Estate Taxes"

I'm ready to start a new business. How do I find out what state taxes I will be responsible for?

DOR registers new employers and vendors to collect the necessary business or "trustee" taxes such as sales/use, meals, room occupancy and withholding. Employers and vendors must register their businesses online through DOR's WebFile for Business application, which is available on the DOR website at www.mass.gov/dor.



Small Business Workshop
617-887-5660

DOR also offers Small Business Workshops designed to help all new or small businesses understand their filing requirements. To find out more about these workshops, visit the DOR website or call DOR at 617-887-5660.

If you are starting a new corporation, you can obtain information from the Secretary of State's office at 617-727-2850. To receive forms from the Secretary of State, call 617-727-9440.

Can DOR help me with my corporation excise returns?

Yes. DOR has staff who can explain which forms corporations should file as well as answer any questions about bills and/or payment requirements. Please call 617-887-MDOR or toll-free in Massachusetts 800-392-6089.

I need a Certificate of Good Standing to sell my business. How do I get one?

DOR's Certificate Unit issues Certificates of Good Standing to corporations that need to establish that they are in good standing with the Commonwealth in regard to withholding, sales/use, meals and room

occupancy taxes as well as the corporation excise. These certificates must be requested online through DOR's Certificate of Good Standing application, available at www.mass.gov/dor, or in writing from the Certificate Unit at PO Box 7066, Boston, MA 02204. For information, call 617-887-6550.

I think my organization is tax-exempt. How do I find out for sure?

Call the IRS toll-free at 877-829-5500 to verify that your organization is tax-exempt.

DOR's Exempt Organizations Unit answers questions about both tax-exempt and nonprofit organizations. This unit also issues the Sales Tax Exemption Certificate (Form ST-2), and determines corporate excise exemptions. Staff members can explain all the necessary filing requirements for your organization. They can be reached at 617-887-6514.

My tax situation is very complicated. How can I get guidance on my responsibilities from the Department?

DOR administers the laws governing all types of state taxes strictly according to the Massachusetts General Laws.

DOR's Rulings and Regulations Bureau issues public written statements that explain the Commonwealth's tax laws in detail. These documents are useful tools for taxpayers and tax practitioners who want to know DOR's official stand on an issue.

Unlike oral advice from the Department, which is advisory only, DOR's public written statements listed below are official statements of DOR policy. Many complicated questions commonly raised by taxpayers are answered in one of the following DOR public written statements:

Regulations are DOR's official interpretations of Massachusetts tax statutes. DOR issues regulations after public hearings in order to communicate clearly to taxpayers and their representatives the Department's position on a particular issue or specific provisions of the law. Industry groups, tax professionals and private individuals are encouraged to take part in the regulatory process.

Technical Information Releases (TIRs) explain changes in federal or Massachusetts tax laws. TIRs also communicate DOR's response to those law changes or to court decisions affecting federal or state tax laws or administration.

DOR Directives are concise statements of position, designed to clarify specific issues that are not covered in any regulation or other public written statement.

Letter Rulings are responses to very specific technical questions, formally asked by taxpayers, that are not already covered in public written statements. To obtain guidance on submitting a request for a letter ruling, please call the Rulings and Regulations Bureau at 617-626-3250. (Because a ruling is based on one taxpayer's specific facts and circumstances, DOR's response is binding only with respect to the taxpayer making the request, although others may consider rulings as nonbinding indications of the Department's position at the time the rulings are issued.)

To obtain a copy of any Regulation, TIR, Directive or Letter Ruling, visit the DOR website at www.mass.gov/dor, or call the Rulings and Regulations Bureau at 617-626-3250.

All DOR public written statements are published in the **MASSTAX Guide**. The Department's **MASSTAX Guide**, produced in conjunction with Thomson West, is an excellent source for researching any state tax issue. The **MASSTAX Guide**, which is printed in five volumes, is updated quarterly and contains DOR policy statements as well as other legal developments and law changes. Along with the volumes devoted to specific taxes, such as personal income, sales/use, etc., the **MASSTAX Guide** has an administrative volume that describes in more detail the enforcement and appeals procedures that are outlined in this guide.

The **MASSTAX Guide** is available at the State House Library in Boston as well as at libraries throughout the Commonwealth. Sets of the **MASSTAX Guide** may be purchased through Thomson West by calling 800-328-9352.



The "MASSTAX Guide"
is available at the
State House Library

Solving a Problem

Your Rights: DOR must maintain a Problem Resolution Office and an Office of Internal Affairs to safeguard taxpayers' rights.

Serving over four million taxpayers, the Massachusetts tax system is a complex network of dozens of different taxes and hundreds of millions of pieces of data, safeguarded by careful procedures to ensure its accuracy and integrity. It is also, fortunately, a system that you, the taxpayer, can turn to if you have a problem with your taxes.

Along with the general information and assistance readily available from the Department, taxpayers who have questions about their particular tax situations are encouraged to contact DOR for help.

If you have a general tax question, you can call DOR's main information lines for assistance. If, however, you are already dealing with a particular area of the Department, you should contact that office directly. The telephone numbers for all bureaus are listed at the back of this guide.

Whenever you have a question that requires us to look up your tax records, the Customer Service Bureau (CSB) or the bureau involved can respond more efficiently when you provide the following information:

- Taxpayer Identification Number
 - for individuals, a Social Security number or tax identification number
 - for businesses, a federal identification number;
- Tax return, letter or bill in question;
- Names and Social Security numbers of both individuals if a joint return is filed; and
- Copies of both sides of a canceled check(s) or money order(s) with correspondence if a bill is being questioned.

☛ To protect a taxpayer's right to privacy, DOR employees legally are barred from discussing a tax return with anyone other than the taxpayer who filed the return or with the taxpayer's designated representative. Therefore, before any confidential tax information is released over the telephone, the CSB representative will ask questions to verify your identity. Also please remember to submit a Power of Attorney (Form M-2848) — available on the DOR website at www.mass.gov/dor, or by calling 617-887-MDOR or toll-free in Massachusetts 800-392-6089 — with any inquiry about your specific tax status if you expect the return to be discussed with a lawyer, accountant, family member or friend.



Please call CSB with
your tax questions

Where can I obtain copies of my previous tax returns?

Generally, DOR retains taxpayer returns for six years, and sometimes longer, if a taxpayer has an unpaid tax liability. Taxpayers who need to obtain copies of previous returns must file a Request for Copy of Tax Form (Form M-4506). For more information or to obtain a form, visit the DOR website at www.mass.gov/dor, or call 617-887-MDOR or toll-free in Massachusetts 800-392-6089.

What if I get a bill that I don't understand?

All bills sent to you by DOR (e.g., a Notice of Assessment or a Demand for Payment) will indicate the type of tax involved, the period for which the tax was due and whether any penalties or interest are due. All bills should be read upon receipt as interest and, in some cases, penalties will accrue on unpaid taxes. In addition, collection proceedings may commence with regard to any undisputed taxes. (Please see the Collections section of this guide for more information.)

If you receive a bill that you don't understand, or if you feel that you were billed incorrectly, you should contact the person or DOR office indicated on the bill. If you have other questions, or if there is no contact number printed on the bill, please call the Customer Service Bureau (CSB). CSB can be reached at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.



Customer Service Bureau
617-887-MDOR
Toll-free 800-392-6089

My refund hasn't arrived. How can I check on its status?

To find out whether your return has been processed and/or when a refund check was issued, visit DOR's website at www.mass.gov/dor, or call DOR's Interactive Voice Response system at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

I received a notice that my refund was intercepted. What does this mean?

Every year, DOR intercepts the refunds of thousands of people who have outstanding debts to specific agencies. This money then is applied to reduce that debt. Your refund may be intercepted if either you or your spouse: owes money to DOR from a different tax period or different tax type; owes unpaid Division of Unemployment Assistance liabilities; owes unpaid Division of Medical Assistance liabilities; owes money

to the Department of Transitional Assistance for overpayments of public assistance; owes money to the Internal Revenue Service (IRS); owes delinquent child support payments; defaults on a student loan; or owes liabilities to any other state agency, or to a city or town, or to an agency of a city, town or to a housing authority, if certified by the Office of the Comptroller. You will receive a notice that will include specific information on where to call with questions.

➡ Nondebtor spouses may appeal to the individual agency to have their portion of a refund returned to them; however, delays may occur in receiving it.

What if I discover that I made a mistake on my taxes?

If you filed a paper return which contains an immediately obvious omission — such as a missing signature — DOR may have to send your return back to you so that you can complete it correctly before it is processed. In other cases — such as an error in adding or subtracting — DOR may be able to correct your return automatically, and you will receive either a notice of the change with your refund, or you will be billed for the balance due.

For situations that you are aware of — such as omitting a deduction or an item of income — you should file an Application for Abatement/Amended Return (Form CA-6), with supporting documentation, to request a refund or to make an additional payment. Taxpayers who filed a Massachusetts income tax return may use DOR's online abatement application (Individual Web Abatement), available at www.mass.gov/dor, to request a refund, make an additional payment or apply for a penalty waiver.

If you believe that you have overpaid your taxes, you generally have three years after the return was due, without regard to extension, to request a refund by filing Form CA-6, or, if eligible, an online abatement application.

If you believe that you have underpaid your taxes, you should file Form CA-6, or, if eligible, an online abatement application with DOR as soon as possible since interest or penalties that you owe for the late payment will continue to accrue until the payment is made. (Please see page 29 for more information on interest rates.)



Please see page 29 for more information on interest rates



See Appeals Section on page 32

If you wish to dispute a tax or penalty for which you were billed, you must file an Application for Abatement/Amended Return (Form CA-6), or, if eligible, an online abatement application. (For more information, please see page 32.)

If you are contacted by the IRS about a federal change in your income taxes due for a particular year, you must inform DOR of the final change within one year by submitting a Form CA-6, or, if eligible, an online abatement application. You also must pay any additional amount due to avoid applicable penalty charges as well as additional interest charges.

Employers and vendors with a tax liability over the \$10,000 threshold filing a withholding, sales/use tax (including sales tax on meals) and/or room occupancy excise return, must file any amended return or abatement application electronically through Webfile for Business. Amendments and abatement requests for tax on telecommunications services must be filed on a paper Form CA-6. However, if the return was a zero tax due return filed by touch-tone telephone, you may file a paper Form CA-6. For more information, please see TIR 04-30, Revised Electronic Filing Requirements, available on the DOR website at www.mass.gov/dor.

You should call DOR's main assistance numbers for more information on how to correct any mistakes on your tax return as well as to get the proper forms for making these corrections. To determine the appropriate documentation to include with Form CA-6, please see the Online Guide to Taxes, available on DOR's website at www.mass.gov/dor.

What if I or my company has filed for bankruptcy?

DOR's Bankruptcy Unit can answer questions concerning how your bankruptcy filing affects payment of state taxes. For more information, call 617-626-3875, or write to the Litigation Bureau/Bankruptcy Unit, PO Box 9565, Boston, MA 02114-9565.

I need help resolving an ongoing problem with DOR. Is there someone who can help me?

Most issues can be handled by the Customer Service Bureau via phone or e-mail; however, if you have a problem that began before the current tax year and has not been settled after at least two contacts with the



Problem Resolution
Office number is
617-626-3833

Department, call or write DOR's Problem Resolution Office (PRO). (More recent problems should be handled either through the bureau involved or through CSB.)

PRO was established specifically to help taxpayers whose problems have not been resolved in a reasonable amount of time; staff can research your problem and make sure that it is solved as quickly as possible.

Once you contact PRO and your case is accepted, a PRO staff person will be assigned to assist you with all aspects of your case until your problem is resolved.

If you need special help resolving a problem, please call PRO at 617-626-3833 or write to the office at PO Box 9552, Boston, MA 02114-9552. Correspondence may be faxed to PRO at 617-626-3799.

You also can seek resolution to an ongoing problem by contacting the Office of the Taxpayer Advocate. This office was created to ensure that taxpayer concerns are addressed fairly and expeditiously at the executive level. The Taxpayer Advocate is DOR's ombudsman, and acts as an independent voice in reviewing protracted individual cases. The Advocate works to ensure that taxpayers are afforded their rights in all communications with the Department.

To contact the Office of the Taxpayer Advocate, please call 617-626-2280, or write to the office at PO Box 9550, Boston, MA 02114-9550.

Where can I call if I think someone is not paying his or her taxes?

If you think someone is not paying his or her taxes, or have reason to believe that a business may not be collecting the appropriate sales tax, you should contact DOR's Criminal Investigations Unit at 617-887-6780. All information is kept completely confidential.

What if I want to complain about a DOR employee's conduct?

If you feel that an employee was rude or unprofessional, you should ask to speak to a supervisor about the incident. You also can contact the Commissioner's Office directly at 617-626-2201 to lodge a complaint.



Integrity Hotline
800-568-0085

If you feel that an employee may have behaved in an unethical or illegal manner, you should contact DOR's Inspectional Services Division (ISD) immediately. ISD is responsible for ensuring the highest standards of integrity throughout the Department and conducts investigations of employees who are suspected of wrongdoing. To report allegations of suspected misconduct or impropriety involving DOR employees, please call ISD's Integrity Hotline at 800-568-0085 or write to PO Box 9568, Boston, MA 02114-9568.

Understanding an Audit or Collection Activity

Your Rights: DOR may not establish or enforce individual collection goals or collection quotas for its employees.

If you are unable to satisfy an undisputed tax liability in full, the Commissioner of Revenue may enter into a payment agreement if the Commissioner determines it will facilitate collection of the tax.

You may obtain representation at any point in your dealings with the Department.

DOR collects hundreds of millions of dollars in delinquent or evaded taxes every year. These dollars help fund vital public programs while ensuring that all taxpayers pay their share of state taxes.

To make sure that everyone is following the same rules, DOR regularly audits taxpayers and pursues people and businesses that fail to file tax returns. In order to collect undisputed taxes that are due, DOR has the legal authority to use a variety of collection means; taxpayers who have willfully falsified their tax situations also may face criminal prosecution.

➤ To protect taxpayers and to promote confidence in the entire tax system, there are many safeguards built into the enforcement of the Commonwealth's tax laws. Individual cases, for example, are documented carefully to ensure that they are handled fairly and according to all Departmental policies and procedures. Once a case is completed, taxpayers may make a written request to see their case files. Such requests should be forwarded to DOR's Legal Division, Disclosure Officer, PO Box 9563, Boston, MA 02114-9563. Also, DOR employees do not receive bonuses or commissions based on the amount of delinquent tax dollars they uncover or collect.

How are audits done?

Most audits are based on information on a tax return or from our extensive exchange of data with the Internal Revenue Service and other states. Quite often, these audits — known as desk audits — can be completed quickly via letters between the Department and the taxpayer involved. In other cases, DOR may have to examine a taxpayer's books, records, etc., to verify his or her tax liability. These examinations are known as field audits. Generally speaking, the better your records are, the faster auditors can complete their work.

All notices indicating that a taxpayer is going to be audited are signed by an auditor. You should call the auditor handling your case if you have any questions.

Why are returns selected for audit?

Returns are selected for audit based on many different criteria. In many cases, questions about specific issues such as interest or partnership



Returns are selected for audit based on many different criteria

income, estimated taxes and capital gain transactions will trigger an audit. A history of late filing or underpayment may lead to an audit. In some instances, audits are based on information obtained from another taxpayer's return. DOR also may look at a random selection of returns to see whether there is a pattern of tax avoidance that needs to be addressed.

How far back can an audit go?

DOR has the legal authority to audit any type of return (e.g., income, sales/use, meals, etc.) for up to three years after it has been filed. This period is known as the "open years." Corporate and individual income tax returns may be audited for up to six years if the taxpayer omits from gross income any amount properly includible in gross income that exceeds 25 percent of the amount of gross income disclosed on the return. Other returns may be audited for up to six years if the taxpayer omits an amount of tax from the return that exceeds 25 percent of the tax reported therein. However, if a taxpayer has failed to file a return or has filed a false or fraudulent return, there is no time limit on how far back DOR can go to discover a taxpayer's true tax liability.

Although there is no statute of limitations if a return has not been filed, DOR generally will require a taxpayer to file returns for the most recent seven years. The seven-year look-back period begins either when DOR first contacts the taxpayer in writing or when the taxpayer voluntarily files a return. (For exceptions to this rule, please see TIR 03-17, Limitation Period for Taxpayers Failing to File Tax Returns, which is available on the DOR website at www.mass.gov/dor or by calling DOR's Rulings and Regulations Bureau at 617-626-3250.)

If there is reason to believe that a taxpayer has filed an incorrect or insufficient return — for example, not submitting all necessary schedules — the taxpayer may be required to submit proof to support the information on the original return or to file an amended return. For their own protection, taxpayers should keep records for as long as possible or for at least six years; the lack of records may make proving your tax liability or verifying a payment difficult.

What if I ignore DOR's request for information?

If a taxpayer fails to file a return, or files an incorrect or insufficient return, for example, and does not respond to DOR's request for information, he or she faces certain sanctions. The auditor may determine the amount due based on the best information available at the time. DOR then may double that amount if a taxpayer fails to respond to its request for information. (The resulting notices state clearly that taxpayers who ignore this type of request for information may face financial sanctions.) The Department also can obtain records through its broad administrative summons powers if a taxpayer refuses to comply voluntarily.

Can I have a lawyer, accountant, friend or family member deal with the Department for me?

Yes. You can have an attorney or anyone else you choose with you when you meet with a DOR employee. If you want someone to represent you, you must give that person what is known as a Power of Attorney. To do so, submit to DOR a completed Form M-2848. A Power of Attorney will allow DOR to discuss your case with the person you designate.

What happens if I am assessed back taxes after an audit?

If a tax is determined to be due, a Notice of Intent to Assess (NIA) will be sent to you. Taxpayers who do not dispute the findings of an audit are encouraged to pay at this point to avoid any further penalties or interest. Taxpayers who do dispute an audit finding still may want to pay in order to avoid additional interest in case they ultimately lose their appeals.

At the end of 30 days, a taxpayer will be sent a bill called a Notice of Assessment (NOA) indicating the amount due. If the taxpayer paid upon receiving the NIA, the NOA ordinarily will indicate no balance due. If the bill is not paid within 30 days from the date on which the Commissioner gives notice of the assessment and the taxpayer does not appeal the assessment by filing an application for abatement within 90 days, then DOR will pursue full payment using a series of collection tools. (Please see "What is the sequence of steps DOR can take to collect a tax that is due?" on page 27.)



See page 27 for more information on the steps DOR can take to collect unpaid liabilities

Can I disagree with an audit finding?

Yes. If you disagree with an audit finding, there are opportunities for you to request a review of your case. The specific steps are outlined in the Appeals section of this guide starting on page 32.



See Appeals Section starting on page 32

Taxpayers should know that the law protects their right to obtain representation at any point in their dealings with the Department. You may stop a meeting, for example, if you decide you want an attorney, accountant, friend or family member to be present with you or represent you in your absence, except in the case of an administrative summons.

If I am right and I get my money back, am I entitled to interest on what I overpaid?

Yes. If a taxpayer wins an appeal, DOR will pay interest on any money it has been holding from the date the Department received a properly completed abatement application. (Please see page 29 for more information on interest rates.)

How could I get a bill from DOR when I've never been audited?

DOR regularly bills taxpayers who have never been audited but who owe overdue taxes. These taxes could be discovered through the routine check DOR does of all returns. These reviews regularly find simple arithmetic mistakes as well as oversights that will trigger a bill. An insufficient payment submitted with a return also will result in a bill.

Telephone numbers are printed on the bills so that taxpayers can call if they have questions about bills or how to appeal them. For additional information, you can call CSB at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

What happens when I don't pay a tax that I owe?

In general, a taxpayer is not required to pay, and DOR may not involuntarily collect, certain taxes if the taxpayer is contesting the amount of tax due. Contested taxes are not required to be paid as long as a timely Application for Abatement/Amended Return (Form CA-6) or an online abatement application has been filed with DOR; or while a subsequent appeal has been filed with the Appellate Tax Board or Probate Court.

For taxpayers with an assessment generated from an audit (a deficiency assessment, not a deemed assessment), the tax is required to be paid 30 days after DOR gives notice of assessment, if no abatement is filed. After 90 days, the portion of tax not in dispute must be paid to avoid involuntary collection activities.

Interest accrues, however, on any unpaid amount, whether disputed or not. The late-pay penalty for failure to pay after receiving a bill is waived for taxpayers with an assessment generated from an audit during the first 30 days, as well as during the appeal process. Taxpayers may avoid the accrual of interest and applicable penalties by voluntarily paying the amount being contested. If the taxpayer ultimately prevails in the appeal process or in court, the payment will be refunded with statutory interest.

Under certain circumstances, DOR may, by written notice, require taxpayers to post security while contested assessments are appealed, if the tax amount exceeds \$5,000.

DOR's Collections Bureau is responsible for collecting delinquent taxes owed to the Commonwealth. It is important to respond to correspondence or telephone calls from the Collections Bureau and other DOR bureaus. If involuntary collections are not stayed, as described above, DOR has the legal authority to record a notice of tax lien, issue a notice of levy, employ collection agencies and/or seize assets — including cars, bank accounts, mutual fund accounts, insurance disbursements, lottery disbursements, wages, businesses and other property. Ignoring a tax bill under these circumstances can be very expensive because interest and penalty charges will continue to accrue until the liability is paid in full.

What happens if my business does not pay a tax it owes?

Under the law, individuals responsible for paying over a business' trustee taxes, including withholding of taxes on wages, sales/use tax, meals tax and room occupancy excise, may be held personally liable for any such delinquent taxes due the Commonwealth, including penalties and interest. Once an individual is determined to be responsible, he or she is subject to the same collection activities as any other delinquent taxpayer, as well as entitled to any stay of collection activities for amounts in dispute

which have not been withheld or collected by the taxpayer. However, if the trustee tax has been collected or withheld by the taxpayer determined to be responsible, late-pay penalties are not waived and involuntary collection activities are not stayed. For more information, please call DOR's Collections Bureau at 617-887-6400.

What is the sequence of steps DOR can take to collect a tax that is due?

A taxpayer receives a bill in the form of a Notice of Assessment which states the date of the assessment, the amount of tax assessed, any accrued penalties, as well as 30 days of interest. If the amount stated on the Notice of Assessment is not paid, a Demand for Payment will be issued. If the assessed tax is not appealed and no payment is mailed within 10 days, any one of the following actions may occur: the account may be subject to automated collection efforts, such as a bank account levy or a wage levy; the account may be referred to DOR's Collections Bureau; or the account may be referred to an outside collection agency. (A taxpayer will be notified at least 30 days before the account is referred to a collection agency.)

The Department can file a notice of tax lien on a taxpayer's property, or it can levy an asset, such as a bank account or accounts receivable. In either case, DOR will inform taxpayers that a notice of lien has been recorded against their property or that a levy has been served. (A tax lien on a property impedes the sale or transfer of the property until the debt is settled and makes it virtually impossible for the buyer to obtain a mortgage; a levy withdraws money from a taxpayer's assets — for example, from bank accounts, mutual fund accounts, insurance disbursements, lottery disbursements, or from wages or a salary — to satisfy the tax liability.)

In certain circumstances, the Department may let a taxpayer pay a liability through a short-term payment agreement that allows installment payments. (Please see the next question for more information on payment agreements.) If a taxpayer is entitled to a refund either from another type of tax or from a different tax period, that refund may be applied to the overall undisputed liability.

In some cases, usually after all else fails, the Department will be forced to seize assets, such as cars or businesses, in order to satisfy the tax liability. Most taxpayers will receive a certified letter warning them that their property will be seized if a settlement is not reached within 10 days. Sometimes, DOR will not send a warning letter if there is a possibility that the taxpayer may hide or transfer an asset to avoid seizure.

Seizures are generally a matter of public record, and DOR routinely publicizes them.

If I do owe the tax but don't have the money, can DOR give me more time to pay?

In cases where taxpayers file their return, but do not have enough money or other assets to settle their debts immediately, DOR may grant them additional time to pay. Taxpayers can enter into payment agreements with DOR that allow them to fulfill their total liabilities through installment payments. Generally, these payment agreements are not allowed to exceed 24 months. In certain instances, however, a more flexible payment plan can be arranged. The Department will refuse to allow a payment agreement if a taxpayer has a history of delinquency, has the resources to settle the debt immediately, or if the agreement jeopardizes the ultimate collection of the tax due.

If you want to determine whether you can enter into a payment agreement, you can begin by talking to the person in the Department who is handling your case. Or, if you have received a bill, you should contact the Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089. Most taxpayers who owe under \$5,000 can apply for payment agreements via the Payment Agreement System available on the DOR website at www.mass.gov/dor, or by calling DOR's Interactive Voice Response system at the numbers listed above.

Taxpayers should note that a payment agreement extends the statute of limitations on collections for the term of the payment agreement and DOR may collect the balance due at any time if the taxpayer defaults on the payment agreement. In addition, any liens remain in effect under the payment agreement until the liability has been paid in full.

What if I haven't filed a return?

A taxpayer who fails to file a required tax return, fails to register as a vendor to conduct business in the state or fails to pay an undisputed tax bill due the Commonwealth faces serious financial and legal sanctions. It is important to note that there is no statute of limitations if a return has not been filed; in other words, you always can be liable for the tax, plus interest and penalties. DOR has in place a procedure that requires a taxpayer to file returns for the year that is currently due plus the six prior years. (Please see page 23 for more detailed information.)

If you discover that you have not filed a return for which you were responsible, you should contact the Customer Service Bureau immediately at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089. CSB can advise you how to settle your account most expediently — before interest and penalty charges mount further.

My business meets the mandatory electronic filing and payment threshold. What happens if I do not submit my return and payment electronically?

If you are required to file returns, make payments or submit data to DOR in an electronic format and you do not do so, you will be subject to a penalty of up to \$100 for each return, payment or data transfer submitted incorrectly to DOR. Please refer to TIR 04-12, Penalty for Failure to File, Report or Pay in the Prescribed Format, and TIR 04-30, Revised Electronic Filing Requirements, for more information.

What interest and penalty charges must I pay on unpaid liabilities?

Tax agencies use interest and penalty charges to ensure compliance with its tax laws. Any overdue tax liability, whether appealed or not, will result in interest charges on the balance due.

The Massachusetts interest rate for underpayments of state taxes is equal to the federal short-term rate (which can change quarterly) plus four percentage points, compounded daily. The Massachusetts interest rate on overpayments is equal to the federal short-term rate (which can change quarterly) plus two percentage points, simple interest. Rates are announced quarterly in a Technical Information Release and posted on DOR's website at www.mass.gov/dor, or may be obtained by calling 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Under Massachusetts state law, there are also penalties that are applied automatically to late returns or payments. Most often, a late return will generate a late file penalty of 1 percent per month (or fraction thereof) on the unpaid tax. There are two separate late-pay penalties. Failure to pay the amount reported on a return, and failure to pay a deficiency assessment within 30 days of a Notice of Assessment both generate a penalty 1 percent per month (or fraction thereof) on the unpaid balance. Late return penalties and unpaid balance penalties are each capped at 25 percent of the unpaid tax. There are also penalties that apply only to certain taxpayers; for example, a partnership faces a \$5 a day penalty for failure to file its annual partnership return, and failure to respond to a DOR notice may, in some cases, result in a doubling of the assessment.

In addition, interest will accrue on unpaid interest, penalties as well as on unpaid tax. Interest is calculated on unpaid failure-to-file penalties and underpayment of estimated tax penalties starting on the due date through the date of full payment and on unpaid applicable failure-to-pay penalties starting on the 31st day after the date of the Notice of Assessment and continuing to the date of full payment.

Can an interest or penalty charge be waived?

DOR cannot, under the law, waive or abate interest or underpayment penalties owed unless the underlying tax liability itself is abated.

The late-pay penalties for failure to pay a deficiency assessment are automatically waived for taxpayers who are audited for the first 30 days following the date on which the Commissioner gives notice of an assessment and subsequently are waived for these taxpayers if a Form CA-6, an online abatement application or amended return is filed, or if an appeal is pending with the Appellate Tax Board or Probate Court. Interest, however, accrues on all unpaid amounts, whether appealed or not.

A request for waiver of a penalty due to “reasonable cause” will be treated as a dispute of a portion of the assessed tax in the amount of the reasonable cause penalties. No involuntary collection of the disputed penalty amount will generally occur while the matter is under appeal.

Can a tax ever be assessed immediately without prior notice?

If DOR determines that a delay would jeopardize collection of a tax — if a taxpayer is or appears to be attempting to put his or her property beyond the reach of Massachusetts tax jurisdiction by concealing, dissipating or transferring it to some other person, for example — DOR must assess the tax immediately, together with all interest and penalties. The tax then is due and payable at once. However, if a taxpayer wishes to delay payment of a so-called jeopardy assessment (or any portion thereof), the taxpayer will be required to post security equal to the unpaid amount under appeal (including interest and penalties that have accrued or may accrue), unless the tax amount in dispute is \$5,000 or less.

What criminal penalties are there for not filing or paying taxes?

Most cases pursued by DOR are handled entirely through civil process. There are cases, however, that DOR's Criminal Investigations Unit will forward to the Attorney General's Office for criminal prosecution.

DOR will refer cases for criminal prosecution whenever there seems to have been a willful effort on the part of the taxpayer to evade taxes. Tax evasion is a felony offense. A conviction is punishable by imprisonment of up to five years and/or a fine — in addition to the tax, interest and penalty owed — of up to \$100,000 for an individual and \$500,000 for a corporation for each offense.

If you know of individuals or businesses who intentionally are not paying their taxes or filing returns, contact the Criminal Investigations Unit at 617-887-6780.

Appealing a State Tax Bill

Your Rights: You generally are entitled to appeal a DOR decision regarding your tax liability. DOR is obligated to make abatement decisions as promptly as possible and to issue any refunds resulting from abatement decisions within 30 days of such decisions.

You will not be subject to statutory penalties if you make a mistake because you relied on erroneous written advice from DOR representatives acting in their official capacities.

If you want to contest a DOR assessment or decision, the law protects your right to do so. Taxpayers have the right to dispute the Department's determination on a tax issue as well as its finding of fact through appeal or by requesting settlement consideration. As a taxpayer, it is important that you understand how to appeal or otherwise resolve a finding and what the best route may be to do so.

Although most people handle their own cases before DOR, taxpayers also may want to consult a tax practitioner for advice. At the end of this section, there are some suggestions for how to find a tax practitioner who can represent or advise you further.

It is also important to know that filing an appeal does not stop interest or late-file penalty charges from accruing on any unpaid tax liability. Filing an appeal will stay the accrual of late-pay penalties on any unpaid contested amounts for taxpayers who have been audited. Involuntary collection activities will be suspended for all taxpayers whether audited or not, while an abatement is pending with DOR or upon subsequent appeal to the Appellate Tax Board or Probate Court.

Please see "How do I request settlement consideration?" on page 40 for detailed information about the settlement process. The Office of Appeals has the authority to resolve tax controversies as to liability prior to assessment or denial of an Application for Abatement/Amended Return (Form CA-6) or an online abatement application or amended return.

Are there rules on how much time I have to appeal a DOR decision?

Yes. Every type of appeal has a strict deadline within which a taxpayer must start the appeals process, and all are explained in this section. It is very important to make sure that deadlines are met because DOR does not have the legal authority to open a case once the time for filing an appeal has expired.

I think that I made a mistake on my return and overpaid my taxes. How can I get my money back?

If you overpaid, or if the Department discovers a simple arithmetic error that caused you to overpay, DOR automatically will refund your money.

If, however, you believe the tax amount you owed was incorrect, you may apply for a refund by filing an Application for Abatement/Amended Return (Form CA-6) or, if eligible, an online abatement application.

Employers and vendors with a tax liability over the \$10,000 threshold filing a withholding, sales/use tax (including sales tax on meals) and/or room occupancy excise return, must file any amended return or abatement application electronically. Amendments and abatement requests for tax on telecommunications services must be filed on a paper Form CA-6. However, if the return was a zero tax due return filed by touch-tone telephone, you may file a paper Form CA-6. For more information, please see TIR 04-30, Revised Electronic Filing Requirements, available on the DOR website at www.mass.gov/dor.

Generally, you have three years from the original date a return was due without regard to any extension of time to request that an overpayment be refunded. For most taxpayers, filing an Application for Abatement/Amended Return (Form CA-6) or an online abatement application is sufficient to request this kind of refund.



Customer Service Bureau
617-887-MDOR
Toll-free 800-392-6089

To obtain a Form CA-6, or if you have any questions about filing the form, please see the Online Guide to Taxes on DOR's website at www.mass.gov/dor, or call DOR's Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

I already paid a bill that DOR sent me, but I think it was wrong. What should I do?

Once a bill has been generated by DOR, taxpayers must file an Application for Abatement/Amended Return (Form CA-6) or an online abatement application if they are looking for a refund of a payment. Generally, taxpayers have three years from the date a return was due, without regard to any extension of time; two years from the date the tax was assessed (the date printed on the Notice of Assessment) or deemed to be assessed; or one year from the date the bill was paid to start the appeals process for an abatement. You can call DOR's Customer Service Bureau at either 617-887-MDOR or toll-free in Massachusetts at 800-392-6089 for information and forms.

I've been audited, and I don't agree with what the auditor says I owe. What do I do now?

If an auditor determines that you owe a tax as a result of a field audit and you don't agree, you can arrange an exit conference with audit staff. The exit conference is an opportunity for you to gain a thorough understanding of the basis for the proposed assessment and to make sure that the facts of your case are developed as fully as possible. This conference may help you avoid entering into the formal appeals process altogether.



Please see page 22 for field and desk audit explanations

If matters are not resolved at the exit conference — or if an auditor determines that you owe a tax as a result of a desk audit — a Notice of Intent to Assess (NIA) will be issued. (Please see page 22 for field and desk audit explanations.)

How do I appeal the Notice of Intent to Assess?

If you disagree with an NIA, you can request either a conference or settlement consideration with DOR's Office of Appeals. The Office of Appeals is a separate office within DOR that operates under the auspices of DOR's Commissioner.



The Office of Appeals is a separate office within DOR that settles tax disputes and conducts hearings on appeals

If you request a conference, the request must be made in writing within 30 days of the issuance date of the NIA. Taxpayers should submit with their conference or settlement request a complete and accurate written statement of the facts and legal questions involved. Taxpayers must submit a Special Consent Extending the Time for Assessment of Taxes (Form B-37), which extends the "open period" for making an assessment.

If, after conducting a conference, the Office of Appeals determines the tax is owed, you will receive a letter of determination explaining the reasons for upholding the tax, and DOR will send you a Notice of Assessment (NOA). Similarly, if settlement is pursued but not reached, this fact will be confirmed in writing and an NOA will be issued.

I just received a bill, but I've never been audited. How could that happen?

NOAs, or bills, are sent to taxpayers either as the result of an audit, as explained above, or as the result of DOR's routine verification of a taxpayer's records. If there has not been an audit, an assessment of an amount due may have been made because an arithmetic, clerical or other obvious

error on the return was detected. In this situation, DOR automatically issues an NOA to the taxpayer.

In addition, effective for returns filed on or after July 1, 2003, the Commissioner may correct returns based upon information from third party sources, and assess a deficiency attributable to omission of taxable income without giving prior notice to the taxpayer. Notification of such correction will be provided to the taxpayer. In general, the taxpayer has 30 days from the date of the notification of the correction to challenge the change, otherwise the corrected assessment will become final with no further action on the part of the Department or the taxpayer. For more information, please see Technical Information Release (TIR) 03-18, available on the DOR website at www.mass.gov/dor.

If a taxpayer has questions about a bill, he or she should call DOR's Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

I have received a Notice of Assessment, and I don't agree with it. How do I appeal this bill?

If you receive a Notice of Assessment that you want to protest, you must file for an abatement. Once an Application for Abatement/Amended Return (Form CA-6) or an online abatement application is filed, late-pay penalties do not accrue on unpaid disputed amounts resulting from an audit assessment. Involuntary collection activities are stayed on all unpaid contested amounts whether resulting from an audit assessment or not, while a taxpayer appeals the assessment. Under certain circumstances, DOR may, by written notice, require taxpayers to post security while unpaid assessments are appealed if the tax amount is greater than \$5,000. Since you have been billed, you should remember that if you choose not to pay at this stage, interest and, where applicable, late-file and late-pay penalties, will continue to accrue on any unpaid amount while the appeal is pending. Choosing to pay at this time will not affect the outcome of your appeal.

To file for an abatement, you must fill out and submit Form CA-6 or an online abatement application, within the time allowed for making an application. The Customer Service Bureau can answer your questions, including how much time you have within which to file an application

for abatement. For more information or to obtain forms, please visit the DOR website at www.mass.gov/dor, or call the Customer Service Bureau at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Employers and vendors with a tax liability over the \$10,000 threshold filing a withholding, sales/use tax (including sales tax on meals) and/or room occupancy excise return, must file any amended return or abatement application electronically through Webfile for Business. Amendments and abatement requests for tax on telecommunications services must be filed on a paper Form CA-6. However, if the return was a zero tax due return filed by touch-tone telephone, you may file a paper Form CA-6. For more information, please see TIR 04-30, Revised Electronic Filing Requirements, available on the DOR website at www.mass.gov/dor.

Any taxpayer filing for abatement has the right to request an abatement hearing. A hearing is granted only when DOR intends to deny the claim, in part or in full, and if the taxpayer requests a hearing in writing on the original abatement application or prior to DOR making any formal determination on that application. These hearings are conducted by the Office of Appeals.

The Customer Service Bureau (CSB) will review the taxpayer's abatement application and transfer the matter to the Office of Appeals, unless it is determined that the abatement should be granted without need for a hearing. CSB may request that the taxpayer provide additional information during the course of its review. Effective for abatement applications filed on or after July 1, 2003, a taxpayer's abatement application will not be considered filed unless properly documented. If a taxpayer fails to respond to a request for further documentation or substantiation within 30 days from the date of the request, the Department may deny the claim without any requested hearing. In that case, the taxpayer will be notified that the abatement is being denied based on lack of sufficient information. See TIR 03-18, available on the DOR website at www.mass.gov/dor, for more information.

➤ Effective for abatement applications filed on or after July 1, 2003, taxpayers who already have had a pre-assessment conference with the Office of Appeals following an audit and who are petitioning for a hearing on

the abatement request will not be granted a hearing unless the taxpayer establishes that there is new factual information or new legal precedent that was not available to the taxpayer at the time of the pre-assessment hearing, or the taxpayer raises a new issue not considered at the pre-assessment hearing. Please see TIR 03-18, available on the DOR website at www.mass.gov/dor, for more information.

If your abatement is granted and you already have paid the bill, your money will be returned to you along with any accumulated interest.

Please also see "How do I request settlement consideration?" on page 40 for information about settlement consideration during the abatement stage of a tax dispute.

How do I appeal an abatement decision with which I don't agree?



If your abatement application is denied, you can appeal your case to the Appellate Tax Board

If your abatement application is denied, you have the right to appeal your case directly to the Appellate Tax Board (ATB) of the Commonwealth of Massachusetts. The ATB is an independent, quasi-judicial administrative board that hears appeals of abatement applications after they have been denied in whole or in part by DOR. (Please see page 39 for more information on the ATB.)

If I want to appeal a decision, do I first have to pay the amount that DOR says I owe?

A taxpayer is not obligated to pay a disputed audit assessment (or portion thereof) for the first 90 days following the date on which the Commissioner gives notice of the audit assessment, and, subsequently, while the taxpayer appeals the audit assessment by filing an abatement with DOR or a subsequent appeal with the ATB or Probate Court. A taxpayer is not obligated to pay a disputed non-audit assessment (or portion thereof) while the taxpayer appeals the assessment by filing an abatement with DOR or a subsequent appeal with the ATB or Probate Court. Under certain circumstances, DOR may, by written notice, require taxpayers who otherwise are not obligated to pay a disputed assessment, to post security while assessments are appealed, if the tax amount exceeds \$5,000.

Many taxpayers will pay a contested tax in order to prevent interest charges and applicable penalties from accruing. If an abatement is

granted, a refund of any resulting overpayment plus applicable interest will be made to the taxpayer.

As discussed above, if DOR denies an abatement claim, a taxpayer is not required to pay the disputed liability before the Appellate Tax Board (ATB) can hear his or her case. However, under ATB rules, a minimum filing fee of \$65 (the fee is variable depending on the amount of tax abatement requested) must accompany each petition in the case of an appeal from DOR.

Can I have someone else represent me in my appeal?

Yes. By filing a Power of Attorney (Form M-2848), you can be represented by a tax practitioner, friend, family member or whomever you choose. Once you have delegated this authority, the person you choose can represent you through correspondence, telephone calls and at any hearing or meeting with the Department.

If, however, you are filing an appeal with the Appellate Tax Board, you either must represent yourself or have an attorney do so.

Is there any way that DOR can reduce my liability by waiving the interest and penalty charges?

DOR does not have the legal power to waive or abate interest due on an unpaid liability. Late-pay penalties are waived on disputed audit assessments for the first 90 days following the date on which the Commissioner gives notice of an assessment and subsequently during any period where an application for abatement is pending.

A request for waiver of a penalty due to "reasonable cause" will be treated as an appeal of a portion of the assessed tax in the amount of the reasonable cause penalties. No involuntary collection of the disputed penalty will occur while the matter is under appeal. Penalties may be waived or abated if the taxpayer had "reasonable cause" for his or her error and did not fail to file or pay due to "willful neglect."

While ignorance of the law is never in itself considered reasonable cause, other factors may permit DOR to waive a penalty. For example, a serious illness or an unavoidable destruction of records may constitute reason-

able cause for a late or inaccurate filing. Also, if a taxpayer reasonably relied on erroneous written advice from DOR personnel, DOR will waive any penalty that accrued.

Applying for a penalty waiver has been made simpler for taxpayers. Most waiver requests now can be handled by the Audit Division after an audit is completed. In some cases, depending on where the case is in the Department when the request for a waiver is made, the Collections or Customer Service Bureau may waive penalties.

DOR has developed a set of guidelines on waiving penalties, Administrative Procedure 633, that is available on the DOR website at www.mass.gov/dor.

Are appeals beyond DOR possible?

Yes. If you wish to further appeal an assessment, the Appellate Tax Board (ATB) will hear virtually all cases that are filed within 60 days after DOR denies a taxpayer's application for an abatement (or within six months of a deemed denial). The ATB holds public hearings on disputed tax cases and is independent of DOR. Please call the ATB at 617-727-3100 for more information.

Late-pay penalties will continue to be waived for disputed audit assessments and involuntary collection activities will continue to be stayed for all disputed assessments until the matter is resolved by the ATB. If the ATB decides the matter in the Commissioner's favor, an audit-assessed taxpayer will have 30 days after the decision to pay the unpaid liability before late-pay penalties begin, and all taxpayers will have 30 days after the decision before involuntary collection activities will commence on the unpaid liability.

After the ATB rules on a case, either side may appeal the ATB's decision to the Massachusetts Appeals Court. If the taxpayer prevails at the ATB, further appeal by DOR will stop the accrual of late-pay penalties for audit-assessed taxpayers and the imposition of involuntary collection activities on all taxpayers by DOR.

In rare cases, taxpayers may qualify to bypass the ATB and take their cases directly to the Massachusetts Trial Court. To file an appeal with the Trial Court, you first should consult a lawyer familiar with tax law.



Appellate Tax Board
617-727-3100

How do I request settlement consideration?

DOR's Office of Appeals offers settlement consideration, an easily accessible alternative to the oftentimes-lengthy appeals process. Settlement consideration provides taxpayers and tax practitioners a way to resolve tax cases without expensive and time-consuming litigation, and in a manner that is objective and reasonable to both taxpayers and the Commonwealth.

After a tax has been assessed, you may submit an Appeals Form (Form DR-1) with the Office of Appeals, and request settlement consideration from the office up to the date that the Customer Service Bureau denies the taxpayer's abatement. See Administrative Procedure 628, available on the DOR website at www.mass.gov/dor.

If you request settlement consideration, please remember:

- The settlement function of the Office of Appeals is separate from the formal conference and hearing processes;
- Form DR-1 does not constitute an Application for Abatement/Amended Return and does not extend the time allowed for filing Form CA-6 or an online abatement application;
- To preserve your appeal rights, you may file for an abatement at the same time you file Form DR-1;
- You must file a petition to the Appellate Tax Board within 60 days of an abatement denial to protect your appeal rights with that body; and
- Authority to settle matters prior to a determination by the Appellate Tax Board rests entirely with the Commissioner of Revenue, and your request for settlement may be rejected by the Commissioner for any reason.

May a tax be forgiven based on my inability to pay?

In some very rare cases, DOR can accept less than the full amount that a taxpayer owes. If there is serious doubt that the tax ever can be collected, taxpayers can submit what is known as an Offer in Final Settlement (Form M-656) to the Department. These requests are handled by the Offers in Final Settlement Unit, which can be reached at 617-887-6400.

A taxpayer should include a payment as a deposit along with the final settlement request. If the request is accepted for review, it will be considered by DOR's executive management staff. In cases where the liability is reduced by more than half or \$20,000 or more, the Attorney General of the Commonwealth must review the settlement and has the authority to object to it.

All agreements relating to Offers in Final Settlement that are approved become matters of public record.

A Guide to Offers in Settlement and all related forms are available on the DOR website at www.mass.gov/dor.

What if I think a tax law is unfair and should be changed?

The Courts can overturn a law if it is found to be unconstitutional but, in most cases, laws are changed through the legislative process by the General Court. If you want to propose a change in the Commonwealth's tax laws, you should contact your state senator or representative. As a citizen of the Commonwealth, you have the right to request your legislator to file legislation. Your senator or representative can explain the process to you; he or she can be reached at 617-722-2000 (House of Representatives) or 617-722-1276 (Senate).

How can I find someone to represent me in my appeal?

DOR is ready to assist taxpayers through the appeals process by explaining what steps to take. There also are many well-trained and dedicated tax practitioners in Massachusetts who can guide clients through their dealings with the Department. (The term "tax practitioners" generally refers to tax lawyers, certified public accountants [CPAs], public accountants, accountants and enrolled agents.)

It is a good idea to find a practitioner who is familiar with Massachusetts tax matters since some specialize in federal tax law and administration, which can differ significantly from state practice.

Tax practitioners are listed in the yellow pages under "Accountants," "Lawyers" and "Tax Return Preparation," or you can contact one of the professional associations for a referral. Among the larger statewide



*Tax and legal
professionals can assist
you with your appeal*

organizations are: the Boston Bar Association, the Massachusetts Bar Association, the Massachusetts Society of Certified Public Accountants, the Massachusetts Association of Public Accountants, the Massachusetts Society of Enrolled Agents and the National Society of Enrolled Agents. There are also similar organizations based in many communities and regional areas of the Commonwealth that can be helpful.

Services are available for people with limited incomes as well, and the associations listed above can make an appropriate referral.

Department of Revenue Resources

What kind of help is available?

If you have questions about completing your Massachusetts tax form, you can call DOR Monday through Friday, between 8:45 a.m. and 5:00 p.m. at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089. In addition, DOR issues a number of useful publications on various state tax issues. These include tax-specific guides and public written statements, such as Regulations and Technical Information Releases that explain the Commonwealth's tax laws in detail. Please see pages 44 and 45 for a more detailed list of available forms and publications.

Where to get forms and publications



Many Massachusetts tax forms and publications are available via the Department's website at www.mass.gov/dor.



To obtain Massachusetts forms and publications by phone, call 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Please note that many forms and publications are available 24 hours a day by calling the Department's automated forms request system at the numbers listed above.



During the income tax filing season, you can pick up Massachusetts personal income tax forms at public libraries, or any IRS district office across the state, including the Boston IRS office.

Commonly Requested Forms and Publications

DOR offers a number of publications on various state tax issues. Most are available on the DOR website at www.mass.gov/dor or by calling DOR's main information lines at 617-887-MDOR or toll-free in Massachusetts at 800-392-6089.

Form Number	Title
Telefile	Telefile
1	Massachusetts Resident Income Tax Form Instructions for Completing Form 1
1-NR/PY	Massachusetts Nonresident or Part-year Resident Income Tax Form Instructions for Completing Form 1-NR/PY
M-4868	Application for Automatic Six-Month Extension of Time to File Massachusetts Income Tax Return
355-7004	Application for Extension of Time to File Massachusetts Domestic or Foreign Business/Manufacturing or Security Corporation Excise Return and Instructions
1-ES	Estimated Income Tax Vouchers (Individuals) Instructions for Completing Form 1-ES Payment Vouchers
2-ES	Estimated Income Tax Vouchers (Fiduciaries, Corporate Trusts, Clubs or Other Unincorporated Organizations) Instructions for Completing Form 2-ES Payment Vouchers
M-2848	Power of Attorney and Declaration of Representative Instructions for Completing Form M-2848
CA-6	Application for Abatement/Amended Return
DR-1	Appeals Form

Publications

A Guide to the Department of Revenue: Your Taxpayer Bill of Rights

A Guide to Withholding of Taxes on Wages

Should You Be Paying Individual Estimated Taxes?

A Guide to Sales and Use Tax

A Guide to Sales Tax on Meals

A Guide to Estate Taxes (Applicable to dates of death prior to January 1, 1997)

A Guide to Estate Taxes (Applicable to dates of death on or after January 1, 1997 and prior to January 1, 2003)

A Guide to Estate Taxes (Applicable to dates of death on or after January 1, 2003)

DOR Regulations, Technical Information Releases, Directives and Letter Rulings are prepared on general tax issues as well as specific taxpayer inquiries and are available on the DOR website, or by calling DOR's Rulings and Regulations Bureau at 617-626-3250. Copies also are published in the **MASSTAX Guide**.

MASSTAX Guide contains five volumes covering all state taxes and DOR administrative procedures; it is available for purchase through Thomson West (800-328-9352) or for reference at many law libraries and at the State House Library.

Massachusetts Department of Revenue Telephone Directory

All numbers are in the 617 area code, unless otherwise indicated.

Executive Administration

Boston, MA	626-2201
Commissioner's Office	626-2201
Office of Appeals	626-2201
Office of the Taxpayer Advocate	626-2280
Office of Tax Policy Analysis	626-2100
Problem Resolution Office	626-3833
Communications Office	626-2251

Audit Division

Chelsea, MA	887-6800
Direct Pay Certification	887-6809
Managed Compliance Agreements	887-6809
Computer-Assisted Audit Techniques	887-5026

Bureau of Desk Audit

Banking & Insurance	887-6710
Combined Remittance Agreements	887-6725
IFTA	887-5080
Installment Sales Unit	887-6950
Manufacturing Corporation Classification Unit	887-6980
Nexus Unit	887-6725
Out-of-State Contracts	887-6995
Security Corporation Classification Unit	887-6990
Voluntary Disclosure Unit	887-6725

Estate Tax Unit

Case Status	887-6930
Estate Assessing	887-6930
Fiduciary	887-MDOR
Forms	887-6940
Release of Lien	887-6930
Excise Tax Unit	887-5060
Alcoholic Beverage	887-5120
Cigarette	887-5090
Gasoline	887-5070
Motor Carriers	887-5110
Special Fuels	887-5040

Massachusetts Audit Offices

Fall River, MA	508-678-2844
Hyannis, MA	508-771-2414
Pittsfield, MA	413-499-2206
Springfield, MA	413-784-1000
Worcester, MA	508-792-7300

Out-of-State Audit Offices

Chicago, IL	312-899-9040
Houston, TX	713-784-7225
New York, NY	212-768-2750

Child Support Enforcement Division

Boston, MA	
Toll-free nationwide	800-332-2733

Inspectional Services Division

Boston, MA	
------------	--

Internal Affairs Office

Internal Audit Office	626-2190
-----------------------	----------

Legal Division

Boston, MA	
------------	--

General Counsel's Office

Litigation Bureau	626-3225
Bankruptcy Unit	626-3875
Criminal Investigations Unit	887-6780

Rulings & Regulations

Bureau	626-3250
--------	----------

Underground Storage Tank Unit

	887-5970
--	----------

Local Services Division

Boston, MA	626-2300
------------	----------

Revenue Accounting Unit

Boston, MA	626-3550
------------	----------

Taxpayer Service Division

Boston, MA	887-MDOR (887-6367)
------------	---------------------

Toll-Free in MA

	800-392-6089
--	--------------

Collections Bureau	887-6400
Offers in Final Settlement	887-6400
Seizures	887-6400

Small Business Workshop

Abatelements	887-MDOR
Bill and Payment Inquiries	887-MDOR
Certificate Unit	887-6550
Corporation Excise	887-MDOR
Corporate Trusts	887-MDOR
Estate Tax	887-6930
Estimated Taxes	887-MDOR
Exempt Organization Unit	887-6514
Fiduciary Taxes	887-MDOR
Forms Supply	887-MDOR
Income Tax	887-MDOR
Meals Tax	887-MDOR
Motor Vehicles	887-MDOR
Nonprofit Corporations	887-MDOR
Nonresident Information	887-MDOR
Partnerships	887-MDOR
Payment Agreements	887-MDOR
Refunds	887-MDOR
Room Occupancy Excise	887-MDOR
Sales and Use Tax	887-MDOR
Teletypewriter (TTY)	887-6140
Withholding	887-MDOR

Index

A

Abatelements	18–19, 24, 25–26, 32–33, 35–38
Amended Returns	18–19, 25–26, 32–33, 35–36, 40
Appeals	
Appeals, Office of	32, 34, 36–37, 40
Appellate Tax Board	25, 30, 32, 37–38, 39, 40
Audit	32, 37
Bills	33, 35–37
Customer Service Bureau	36
Deadlines	32, 33, 34–35, 39, 40
Exit Conference	34
Notice of Assessment	35–37
Notice of Intent to Assess	24, 34
Assessments	
Disputing	32, 35–37, 39
Explanation of	17, 24, 27
Notices of	17, 24, 27, 30, 33, 34–35
Audit	
Disputing	24, 32, 34
Exit Conference	34
Explanation of	22–23
Records	22, 23, 24, 34
Time Limit	23

B

Bankruptcy	19
Bills	
Appeals	33, 35–37
Explanation of	17, 24, 25, 34–35
See Notices	

C

Certificates of Good Standing	13–14
Collections	
Levies, Liens & Seizures	26, 27–28
Complaints	20–21
Confidentiality of Tax Information	8–9, 16
Corporation Excise	13

D

Demand for Payment	17, 27
Directives	15, 45

E

Enforcement Powers	
Collection Agencies	26, 27
General	27–28
Interest & Penalties	29–30
Levies, Liens & Seizures	26, 27
Estate Tax	12–13
Estimated Tax Payments	10–11
Exempt Organizations	14
Extension of Time to File	9–10

F

Forms	
Amended Returns	18–19, 25, 33, 35–36, 40
Appeals Form (DR-1)	40

Application for Abatement	18–19, 25, 33, 35–36, 40
Availability of	8, 43–45
Estimated Income Tax Vouchers	
Fiduciaries (2-ES)	10–11
Individual (1-ES)	10–11
Extension of Time to File	
Corporation (355-7004)	10
Fiduciaries (M-8736)	9–10
Individual (M-4868)	9
Income Tax Returns	
Nonresident/Part-Year Form 1-NR/PY	12, 44
Resident Form 1	12, 44
Telefile Form	12, 44
Offer in Final Settlement (M-656)	40–41
Power of Attorney (M-2848)	16, 24, 38

H

Hearings	36–37
----------	-------

I

Income Tax	
Extensions	9
Help	8
Returns	12, 44
Interest	
Delinquent Taxes	29–30
Failure to File or Pay	29–30
Overpayments	25
Unpaid Liabilities	10, 17, 19, 26, 27, 29–30, 35
Waivers and Abatelements	30, 37–39

L

Legal	
Power of Attorney	16, 24, 38
Practitioner Referrals	41–42
Resources	14–15, 45
Levies	26, 27
Liens	26, 27

M

MASSTAX Guide	15, 45
Motor Vehicle Sales/Use Tax	11

N

Nonprofit organizations	14
Notices	
of Assessment	17, 24, 27, 30, 33, 34–35
of Intent to Assess	24, 34
Refund Intercept	17–18

O

Offers in Final Settlement	40–41
----------------------------	-------

P

Payment Agreements	27, 28
Penalties	
Criminal	31
Delinquent Taxes	26

Failure to File or Pay	26, 29, 30
Motor Vehicle	11
Unpaid Liabilities	17, 19, 26, 29–30
Waivers and Abatelements	30, 35, 37–39
Power of Attorney	16, 24, 38
Problem Resolution Office	19–20
Publications	See Resources
Public Written Statements	14–15, 43, 45

R

Refunds	
General Information	8, 9
Intercept	17–18
Overpayments	9, 18, 32–33, 37–38
Status	17
Registration	13
Regulations	14, 45
Representation	
Power of Attorney	16, 24, 38
Practitioner Referrals	41–42
Resources	14–15, 43
Returns	
Amending of	18–19, 32–33
Auditing of	22–23, 25
Failure to File or Pay	23–24, 25, 28, 29
Mistakes	18–19, 32–33
Obtaining Copies of	17
Overpayments	18, 32–33
Underpayments	19, 32–33

S

Sales/Use Tax	11–12, 13, 19, 26, 33, 36
Seizures	26, 27
Settlement Consideration	32, 34, 37, 40
Small Business Workshops	13
Statute of Limitations	23, 28, 29

T

Tax	
Evasion	20, 31
Exempt Organizations	14
Failure to File or Pay	23–24, 26–30
Overpayments	18, 25, 29, 32–33, 37–38
Records	22, 23, 24, 34, 38–39
Underpayments	19, 23, 29
Taxpayer Assistance Directory	46
General	8, 43–46
Refund Status	17
Small Business Workshops	13
Technical Information	
Releases (TIRs)	15, 45
Trustee Taxes	13, 19, 33

U

Use Tax	11–12, 13, 19, 33
---------	-------------------

To report allegations of suspected misconduct or impropriety involving Department of Revenue employees, please call the Inspectional Services Division's Integrity Hot Line at 800-568-0085 or write to PO Box 55480, Boston, MA 02205.

Department of Revenue

*Toll-free in Massachusetts: **800-392-6089***

*Online: **www.mass.gov/dor***